

## **REMARKS**

### **Drawings**

The documents submitted by the Examining Attorney show no objection to the drawings.

### **Anticipation - Section 102(b) Rejection**

The Examining Attorney has rejected claims 1 through 3 as being anticipated by Koenig. The Applicant respectfully requests the Examining Attorney reconsider the rejection based on the arguments set forth below.

First of all, the Koenig reference is a type of multiplexer cabinet which the applicants describe as prior art, and lacks the DSX-1 cross connect assemblies or modules disclosed in an integrated package by this invention. Instead of Koenig providing the integrated package disclosed and claimed by this invention, Koenig merely describes interfaces (cards) and wiring connectors which are designed to be connected to a low speed network of DSX-1 assemblies or modules. Koenig does not integrate said modules, but instead would use hard wire connections as described in the current application (for instance at page 3, line 1).

While Koenig recognizes the need for greater density and decreased space (Col 2, line 2 for instance), it only seeks to provide said reduction for the multiplexer portion. The multiplexers in Koenig use interface cards (Col 6, line 32) to provide the electronic interface or conversion and a pair of 64 pin

connectors 108 (Col 6, line 53 for instance) for "connecting to equipment external to the multiplexer device 20 (Col. 6, line 47).

The applicant submits that Koenig does not anticipate any of the rejected claims of this invention for the following reasons:

1. Koenig is not known or capable of performing the function of this invention, nor does it teach the disclosure of this invention. Koenig lacks the DSX1 jack assemblies, and therefore is not capable of performing the integrated functions contemplated thereby.

There is no anticipation by a prior patent not known or recognized as being capable of performing the function of the patented device, but rather the prior patent must itself do the teaching. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 221 U.S.P.Q. 385 (1984); Edstrom-Carson & Co. v. Onsrud Machine Works, Inc., 129 U.S.P.Q. 457.

2. Koenig does not disclose the purpose, means or mechanism that this invention discloses, i.e. an integrated DSX-1 jack assembly and multiplexer cabinet. Instead Koenig merely provides a multiplexer which must then be connected to the DSX-1 jack assembly network which is external to it.

There is no anticipation where a reference does not disclose the purpose, means and mechanism for accomplishing the instant invention but rather is restricted to a limited and different means. Sperry Products, Inc. V. Aluminum Company of America, 120 U.S.P.Q. 362.

3. Koenig does not solve the problems this invention solves for the reasons stated above.

There is no anticipation if a prior patent does not solve the problem(s) which the subsequent patent successfully solves. Technical Development Corporation v. Servo Corporation of America, 125 U.S.P.Q. 133.

The Koenig reference does not disclose each and every element of the claimed invention, as required for a *prima facie* case of anticipation, and as stated more fully above. Koenig does not provide the plurality of DSX-1 jack assemblies.

There is no anticipation if the reference does not disclose each and every element of the claimed invention. SSIH Equipment S.A. v. United States International Trade Commission, 718 F.2d 365, 218 U.S.P.Q. 678 (1983).

#### **OBVIOUSNESS - SECTION 103(A) REJECTION: Koenig - Werner**

All claims were commonly owned at the time of the inventions.

The Examiner has rejected claims 2, 20 and 21 under 103(a) based on Koenig in view of Werner (both of which were cited by applicant). Applicant requests the Examiner reconsider the rejection based on the argument and points presented above with respect to anticipation, and for the reasons set forth below.

First of all, there is nothing in either reference which teaches or suggests combining the two. Separate DSX-1 cabinets (such as Werner) and multiplexer

cabinets (such as Koenig) have been mounted near one another and hard wired together for many years, in an industry that has a focus to increase density and reduce the space within which the components operate.

Since there being nothing in either reference which suggests the desirability of the combination, the combination of Koenig and Werner therefore does not meet the minimum required showing for *prima facie* obviousness.

In the U.S. Court of Appeals for the Federal Circuit case of *In Re: Lee*, 61 U.S.P.Q. 2d 1430, decided January 18, 2002, the Federal Circuit held:

... Thus, when they rely on what they assert to be general knowledge to negate patentability, that knowledge must be articulated and placed on the record. The failure to do so is not consistent with either effective administrative procedure or effective judicial review. The Board cannot rely on conclusory statements when dealing with particular combinations of prior art and specific claims, but must set forth the rationale on which it relies.

The examining attorney has therefore failed to meet the requirement to set forth with specificity the general knowledge in the art to enable a finding that the person having ordinary skill in the art would make such combination.

As the PTO recognizes in MPEP 2142:

The legal concept of *prima facie* obviousness is a procedural tool of examination which applies broadly to all arts. It allocates who has the burden of going forward with production of evidence in each step of the examination process.... The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the Examiner does not produce a *prima facie* case, the Applicant is under no obligation to submit evidence of non-obviousness.... The initial evaluation of *prima facie* obviousness thus relieves both the Examiner and Applicant from evaluating evidence beyond the prior art and the evidence in the specification as filed until the art has been shown to suggest the claimed invention.

MPEP 2143.01 provides:

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re: Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

The Federal Circuit has several times expressly addressed the issue of how to evaluate an alleged case of *prima facie* obviousness to determine whether it has been properly made. Thus, *In re: Geiger* stated in holding that the PTO "failed to establish a *prima facie* case of obviousness:

Obviousness cannot be established by combining the teaching of the prior art to produce the claimed invention, absent some teaching,

suggestion or incentive supporting the combination. *ADC Hospital Systems, Inc. V. Monteffore Hospital*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984).

### **OBVIOUSNESS - SECTION 103(A) REJECTION: Koenig alone**

The Examiner has rejected claims 4, 9, 15-19 and 22-27 under 103(a) based on Koenig alone. Applicant requests the Examiner reconsider the rejection based on the argument and points presented above with respect to anticipation and obviousness based on Koenig in view of Werner.

### **Prior Art Made of Record and Not Relied Upon**

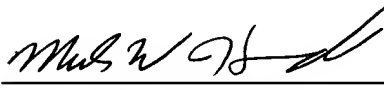
The Applicant notes the prior art made of record but not relied upon and asserts that for the reasons set forth above, the claims are allowable over the art made of record.

## Conclusion

Applicant therefore submits Claims 1-28 are in a position to proceed to allowance.

Respectfully submitted,

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Appl. No. 09/837,622

Application Serial No. .... 09/837,622  
Filing Date .... April 17, 2001  
Inventor .... Vercruyssen, et al.  
Assignee .... Telect, Inc.  
Group Art Unit .... 2831  
Examiner .... Anton B. Harris  
Attorney's Docket No. .... TE2-084  
Title: Integrated Telecommunications Cabinet System with DSX  
Assemblies and Multiplexers

VERSION WITH MARKINGS TO SHOW CHANGES MADE  
ACCOMPANYING RESPONSE TO NOVEMBER 20, 2002 OFFICE ACTION

**In the Claims**

The claims have been amended as follows. Underlines indicate insertions  
and ~~strikeouts~~ indicate deletions.

1. A telecommunications cabinet assembly comprised of:
  - (a) a cabinet framework with a first end and a second end;
  - (b) a plurality of DSX-1 jack assemblies mounted on the cabinet framework;  
and
  - (c) at least one multiplexer mounted on the cabinet framework and disposed  
to be accessed from the first end of the cabinet framework.

2. (Amended) A telecommunications cabinet assembly as recited in claim 1, and further wherein each jack assembly is comprised of:

- (i) a front panel portion which includes a single column of at least one sleeve for receiving a plug therein;
- (ii) a switch assembly support portion; and
- (iii) at least one switch assembly positioned within the framework rearward from the corresponding sleeve, the switch assembly being configured ~~adapted~~ to receive and make electrical contact with a plug inserted in the corresponding sleeve

3. A telecommunications cabinet assembly as recited in claim 1, and further wherein the plurality of DSX-1 jack assemblies are each removably secured to the first end of the cabinet framework.

4. A telecommunications cabinet assembly as recited in claim 1, and further wherein the plurality of DSX-1 jack assemblies comprise at least forty-two DSX-1 circuits.

5. A telecommunications cabinet assembly as recited in claim 1, and further wherein the at least one multiplexer comprises an M13 multiplexer/demultiplexer.

6. A telecommunications cabinet assembly as recited in claim 1, and further comprising a backplane circuit board assembly electrically connected to the at least one multiplexer and the plurality of DSX-1 jack assemblies.

7. A telecommunications cabinet assembly as recited in claim 1, and further comprising at least one DSX-3 jack assembly mounted on the cabinet framework.

8. A telecommunications cabinet assembly as recited in claim 1, and further wherein the at least one multiplexer is mounted in the same horizontal plane as the plurality of DSX-1 jack assemblies.

9. A telecommunications cabinet assembly as recited in claim 1, and further wherein the at least one multiplexer is comprised of one active and one standby multiplexer.

10. A telecommunications cabinet assembly as recited in claim 1, and further wherein the plurality of multiplexers comprise:

a high speed transmission line interface unit responsible for signal input-output interface with a set of sending and receiving high speed transmission lines;

a low speed transmission line interface unit responsible for signal input-output interface with a set of sending and receiving low speed transmission lines; and

a multiplex converting unit for performing multiplexing and demultiplexing between high speed signals transmitted on the high speed transmission lines and low speed signals transmitted on the low speed transmission lines.

11. A telecommunications cabinet assembly as recited in claim 10, and further wherein the interface between the multiplex converting unit and the switch assemblies comprises an optical fiber interface.

12. A telecommunications cabinet assembly as recited in claim 1, and further comprising:

a backplane printed circuit board assembly mounted to the cabinet framework; and

an interconnect printed circuit board electrically coupling the jack assemblies with the backplane printed circuit board assembly.

13. A telecommunications cabinet assembly as recited in claim 1, and wherein the plurality of jack assemblies are disposed to be accessed from the front end of the cabinet framework.

14. A telecommunications cabinet assembly comprised of:

- (a) a cabinet framework with a first end and a second end, and wherein the framework defines a width dimension to a height dimension ratio which is greater than one;
- (b) a plurality of DSX-1 jack assemblies mounted on the cabinet framework; and
- (c) at least one multiplexer mounted on the cabinet framework.

15. A telecommunications cabinet assembly as recited in claim 14, and further wherein the framework defines the width dimension to height dimension ratio at greater than three and less than four.

16. A telecommunications cabinet assembly as recited in claim 14, and further wherein the framework defines the width dimension to be in a range from 14 inches to 24 inches.

17. A telecommunications cabinet assembly as recited in claim 14, and further wherein the framework defines the height dimension to be in a range from 3 inches to 6 inches.

18. A telecommunications cabinet assembly comprised of:

- (a) a cabinet framework with a first end and a second end, the cabinet framework configured to mount to a nineteen inch wide distribution rack;
- (b) at least forty-two DSX-1 jack assemblies mounted on the cabinet framework; and
- (c) at least two multiplexers mounted on the cabinet framework, the at least two multiplexers being electrically connected to the at least forty-two DSX-1 jack assemblies.

19. A telecommunications cabinet assembly as recited in claim 18, and further comprised of a backplane circuit board assembly electrically

connected to the at least one multiplexer and the at least forty-two DSX-1 circuits.

20. (Amended) A telecommunications cabinet assembly comprised of:

- (a) a cabinet framework with a first end and a second end;
- (b) a plurality of DSX-1 jack assemblies mounted on the cabinet framework, each jack assembly being comprised of:
  - (i) a front panel portion which includes a single column of at least one sleeve for receiving a plug therein;
  - (ii) a switch assembly support portion; and
  - (iii) at least one switch assembly positioned within the framework rearward from the corresponding sleeve, the switch assembly being configured ~~adapted~~ to receive and make electrical contact with a plug inserted in the corresponding sleeve;
- (c) at least one multiplexer mounted on the cabinet framework;
- (a) a backplane circuit board electrically connected to the at least one multiplexer and the plurality of DSX-1 jack assemblies.

21. A telecommunications cabinet assembly as recited in claim 20, and further wherein the backplane circuit board assembly is electrically connected to the at

least one multiplexer and the plurality of DSX-1 jack assemblies by a backplane interconnect conductor.

22. A telecommunications cabinet assembly comprised of a cabinet framework with a first end and a second end, the cabinet framework having a vertical height of less than twelve inches, the cabinet framework including a first set of DSX-1 jack assemblies mounted on and disposed to be accessed from the first end of the cabinet framework, a first multiplexer mounted on and disposed to be accessed from the first end of the cabinet framework, the first multiplexer being electrically connected to the first set of DSX-1 jack assemblies;

and wherein there is at least one multiplexer and at least twenty-eight DSX-1 jack assemblies mounted on the cabinet framework.

23. A telecommunications cabinet assembly as recited in claim 22, and further wherein the first multiplexer electrically connected to the first set of DSX-1 jack assemblies through a backplane printed circuit board assembly.

24. A telecommunications cabinet assembly as recited in claim 22, only wherein there are at least two multiplexers and at least fifty-six DSX-1 circuits mounted on the cabinet framework.

25. A telecommunications cabinet assembly as recited in claim 22, only wherein the cabinet framework has a vertical height of less than six inches.

26. A telecommunications cabinet assembly as recited in claim 22, only wherein there are at least two multiplexers and at least fifty-six DSX-1 circuits mounted on the cabinet framework.

27. A telecommunications cabinet assembly comprised of a cabinet framework with a first end and a second end, the cabinet framework having a vertical height of less than twelve inches, the cabinet framework including a first set of DSX-1 jack assemblies mounted on the cabinet framework, a first multiplexer mounted on the cabinet framework, the first multiplexer being electrically connected to the first set of DSX-1 jack assemblies; and wherein the first multiplexer is mounted on a same horizontal plane within the cabinet as the first set of DSX-1 jack assemblies.

28. A telecommunications cabinet assembly comprised of:

- (a) a cabinet framework with a first end and a second end;
- (b) a plurality of DSX-3 assemblies mounted on the cabinet framework; and
- (c) at least one multiplexer mounted on the cabinet framework and electrically connected to the plurality of DSX-3 assemblies.

**END OF DOCUMENT-**